

FIRST ANNUAL
DUI REPORT
TO THE UTAH LEGISLATURE

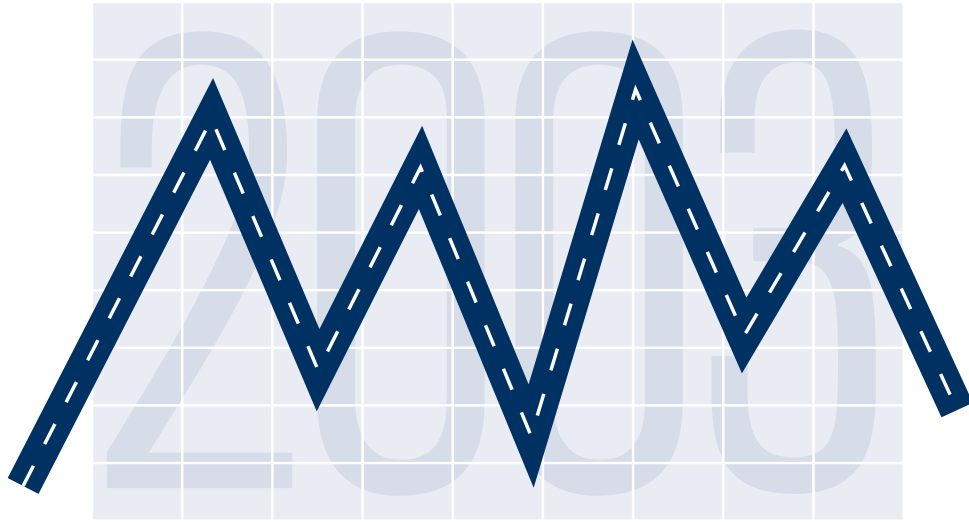


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Acknowledgements

The Utah Commission on Criminal and Juvenile Justice acknowledges the contributions of the Utah Substance Abuse and Anti-Violence Coordinating Council, specifically the Council's DUI Committee co-chaired by Anna Kay Waddoups and Mary Lou Emerson.

Also contributing to this report are the Administrative Office of the Courts, Utah Department of Public Safety, Utah Sentencing Commission, and the University of Utah Social Research Institute.

Recommendations

Immediate action necessary: The Utah Legislature needs to pass appropriation language to distribute the 2003 alcohol funds to municipalities and counties to enhance their DUI enforcement, prevention and treatment efforts.

- Justice Courts and the Department of Public Safety must continue to work together to ensure the accuracy and compatibility of all electronically transmitted DUI data.
- Ignition interlock providers need to expand the number of installers so that devices are readily available even in rural communities.
- The Utah Judicial Council should adopt the proposed written enhancement notification rule to inform defendants that subsequent DUI's can result in enhanced penalties.
- The Utah Substance Abuse and Anti-Violence Coordinating Council should consider adopting additional reporting requirements to ensure that local alcohol funds are used to enhance current efforts and not supplant those efforts.
- On-going training for judges and prosecutors is needed to ensure they are current on DUI laws, as there have been numerous changes to the laws in the last several years. Training should also emphasize the effectiveness of various sanctions, in particular, the effectiveness of education and treatment in reducing repeat DUI offenses.
- The Utah Legislature should pass statutory language to allow the electronic transmission of data for driver license hearings and to allow the Driver License Division the authority to determine in which county a hearing will be held.
- The Utah Department of Public Safety and law enforcement agencies must continue to train law enforcement officers to check for conditional licenses and respond appropriately during traffic stops.

Purpose of the Report

Requirements of HB5002

The *First Annual Driving Under the Influence Report to the Utah Legislature* meets the requirements established in H.B. 5002 (sponsor Rep. Lamont Tyler) passed during the 2002 5th Special Session. The bill requires the Utah Commission on Criminal and Juvenile Justice to prepare an annual report of DUI related data and available outcomes. The bill specifies that the report shall cover the data collected by the courts and any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related processes of:

- (1) law enforcement;
- (2) adjudication;
- (3) sanctions;
- (4) drivers' license control; and
- (5) alcohol education, assessment and treatment.

The impetus for generating this annual report was the Governor's Council on Driving Under the Influence. The Council, co-chaired by Lt. Governor Olene Walker and Rep. Nora B. Stephens concluded a two-and-a-half year study of DUI in Utah with a series of recommendations to various state and local entities. Among the recommendations made was improvement of court records and increasing available data to better understand DUI. The Council's sunset date was June 30, 2002.

WHAT IS DUI?

Driving under the influence (DUI) occurs when an individual operates or is in physical control of a vehicle with a 0.08% or more blood alcohol content in their system, or whose driving is considered "unsafe" due to alcohol or other drugs in the body.

DUI is a Class B misdemeanor, punishable by a fine, jail or community service, 90-day license suspension, an alcohol class, or alcohol problem assessment. More severe criminal actions are taken for DUI with a passenger under the age of 16 years, DUI with an injury or fatal crash, or DUI that is the second or more DUI offense within 10 years.

Report Period and Data Sources

This report covers the period of FY 2003 (July 1, 2002 to June 30, 2003) and details the progress made in DUI data collection since the passage of HB 5002.

This report also draws upon two studies that examined DUI data over the last ten years. The first study, conducted by the Commission on Criminal and Juvenile Justice, examines DUI arrests between 1990 and 2000. The second study, commissioned by the Utah Department of Public Safety, Office of Highway Safety, examines DUI data from 1991 to 2001. Preliminary findings from this study, being performed by the University of Utah Social Research Institute, are provided.

Other local and national data sources will also be cited in an attempt to provide a thorough and comprehensive understanding of DUI in Utah. Because various data sources are utilized, data may not always be comparable, but are considered accurate.

Progress Made Since Sunset of Governor's Council on DUI

Progress Made in FY 2003

■ Automation of DUI Data

As per the requirements of H.B. 5002, the Administrative Office of the Courts identified eleven data elements critical to understanding DUI. The Utah Department of Public Safety reprogrammed their criminal history database within 14 days of being notified of the new DUI data elements. As of January 1, 2003, all District Courts were reporting on the new DUI data elements. All county Justice Courts are electronically reporting their data, with municipal Justice Courts having until February 2004 to be in full compliance. The Utah Department of Public Safety continues to work with Justice Courts as they phase-in this reporting requirement.

■ Formation of the USAAV DUI Committee

Co-chaired by Anna Kay Waddoups, citizen, and Mary Lou Emerson, Assistant Division Director of the Division of Substance Abuse and Mental Health, the USAAV DUI Committee is continuing to monitor and track the progress of the Governor's Council recommendations as well as address other DUI-related issues.

■ Passage of Key Pieces of DUI Legislation During 2002 General Session

HB 32 (Rep. Joseph Murray), Vehicle Impound Fee for DUI Cases

Increases impound fees from \$200 to \$230; increases dedicated credits from administrative impound fees from \$25 to \$29; and increases the amount of administrative impound fees deposited in Department of Public Safety's

USA AV DUI COMMITTEE

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Restricted Account from \$84 to \$97. Allows waiving or refunding the impound fees if the arrested person's license is not suspended or revoked or the vehicle was stolen.

SB 7S1 (Sen. Carlene Walker), Automobile Homicide Amendments

Automobile homicide is a second degree felony if the conviction is subsequent to a DUI conviction.

SB 31 (Sen. Chris Butters), DUI Plea Restrictions

Requires the prosecutor to examine the criminal history or driver license record of a defendant before the court can accept a plea of guilty or no contest in driving under the influence of alcohol or drugs.

SB 66 (Sen. Michael Waddoups), Alcoholic Beverage Enforcement and Treatment

Increases the beer tax rate by \$3 a barrel and creates the Alcoholic Beverage Enforcement and Treatment Restricted Account. The revenues from the account must be used for programs or projects related to alcohol violations, and must be distributed to municipalities and counties as appropriated by the Legislature and as provided for in a list in the original act.

SB 127 (Sen. John Valentine), Appearance of Drivers License Amendments

The driver licenses and identification cards issued to persons under 21 shall be in a portrait-style format, which style is not used for other licenses or identification cards. The date the holder turns 21 must be plainly printed. If the holder is under 19, the date the holder turns 19 must also be plainly printed.

■ **Completion and Distribution of Utah Sentencing Commission's DUI Best Sentencing Practices Guidebook**

The Sentencing Commission released the Guidebook in August 2003, distributing hard copies and a CD statewide to all judges, prosecutors and court personnel that handle DUI cases. The guidebook is designed to complement the experience of its users and to provide the best information available concerning sanctions and interventions for DUI offenders. A laminated DUI Sentencing Matrix was also provided.

■ **Extensive DUI Training for Justice Courts Judges**

The focus of this year's May 2003 Justice Court Judge's Conference was DUI. Judges followed a fictional DUI defendant from the time of his stop and arrest through conviction and sentencing. Areas receiving special consideration included the legality of a defendant's detention, admissibility of breath/blood test evidence, essential constitutional notifications provided during arraignment, and reporting the convictions to the Bureau of Criminal Identification.

DUI Court Data

When a local law enforcement agency makes a DUI arrest, that information is reported back to the agency, with arrest data then forwarded to the Driver License Division and the Bureau of Criminal Identification. Depending on the type of offense, the case is referred to either the District Court or to the local Justice Court. District Courts track all DUI cases and their disposition statewide in a central repository. Local governments operate Justice Courts and report case disposition elements to the Department of Public Safety.

WHAT IS THE ROLE OF JUSTICE COURTS?

Justice Courts, located in 138 communities around the state, adjudicate the bulk of DUI cases in Utah. In FY 2003, 73% of DUI filings took place in justice courts.

Justice Courts are established by counties and municipalities and have the authority to deal with class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction. Justice court jurisdictions are determined by the boundaries of local government entities such as cities or counties, which hire the judges.

Although local government funds these courts, they function as part of the State's judicial system and must be recertified by the Judicial Council every four years.

Recognizing that DUI data is imperative for prosecutors to appropriately identify when a DUI offender is a repeat offender and therefore subject to enhancement, HB 5002 required that all Justice Courts electronically report their data and a num-

ber of new data elements to the Department of Public Safety by February 2004. Failure to meet that capability would affect their recertification.

HB 5002 also required that "the state courts shall collect and maintain data necessary to allow sentencing and enhancement decisions" on DUI offenses. The Administrative Office of the Courts subsequently identified eleven different data elements deemed important to understanding DUI such as charging offense and sanctions applied.

COURTS DUI-IDENTIFIED DATA ELEMENTS

- 1) Offense was charged as**
- 2) Offense was actually**
- 3) Offense was sentenced as**
- 4) Blood alcohol content**
- 5) Substance abuse screening and assessment ordered**
- 6) Substance abuse treatment ordered**
- 7) Educational series ordered**
- 8) Ignition interlock ordered**
- 9) Supervised (non-court) probation**
- 10) Electronic monitoring**
- 11) Enhanced notification**

Progress Collecting Data

Collecting the new data elements was a cooperative effort between the courts and the Department of Public Safety (DPS). Within 14 days of being notified of the new DUI data elements that were needed in the state's criminal history files, DPS completed the necessary programming to its database. Recognition must also be given to court clerical staff who have worked closely with local prosecutors to assure that data elements required in the database are submitted to the court.

Once DPS completed the modification of their database, the next step entailed the testing of each court's data when it was electronically received at DPS. Data must be reviewed for integrity and compatibility as it is transferred from one electronic format to another. Once the data meets all testing requirements, it is incorporated into the database.

As of January 1, 2003, District Court data collection was fully functioning. Data for the last six months of FY 2003 are included in this report. Justice Court data, on the other hand, is still being phased-in. At the end of FY 2003, there were 13 Justice Courts that were represented in the database. That figure will continue to increase as Justice Courts come on-line and as DPS accepts the data.

There are several challenges that have prevented Justice Courts from coming on-line as quickly as District Courts. First, not all Justice Courts currently have electronic reporting capability, nor are they required to have that capability until they are recertified. All county Justice Courts met this requirement in February 2003. Municipal Justice Courts have until February 2004 to meet this requirement. Second, Justice Courts utilize various vendors to collect and store their data. Vendors and DPS must work together to resolve any data transfer issues. Finally, some reports submitted by Justice Courts do not contain all required data sets, resulting in the report being rejected. DPS is working with Justice Courts to train them on data requirements.

Justice Court DUI Filings

There were 9,450 DUI filings in Justice Courts in FY 2003. Of the 7,272 cases disposed, 79.2 percent were found guilty and 20.8 percent had the charges dismissed. Charges are still pending for 23 percent of the defendants.

JUSTICE COURT DUI FILINGS AND OUTCOMES JAN 1, 2003

TOTAL DUI CHARGES FILED	9,450
GUILTY	5,762
DISMISSED	1,510
PENDING CHARGES	2,178

District Court DUI Data

District Courts handle all felony DUI cases and DUI cases not referred to Justice Courts. During FY 2003, a total of 2,293 DUI cases were filed in Utah's District Courts. The following table identifies the cases filed by district and details the dispositions. It should be noted this table includes cases that were filed in the previous fiscal year but were closed during fiscal year 2003.

DISTRICT COURT FILINGS AND OUTCOMES FY 2003

DISTRICT	1ST	2ND	3RD	4TH	5TH	6TH	7TH	8TH	TOTAL
DUI CASE FILINGS	61	808	354	730	172	18	53	97	2,293
GUILTY	65	755	343	567	181	58	68	143	2,180
DISMISSED	52	100	108	65	19	24	12	15	395
NO CONTEST	1	23	3	57	8	1	5	3	101
PLEA IN ABEYANCE	1	31	3	43	3	7	7	1	96
DECLINED PROSECUTION	1	1	1	1	0	1	0	0	5
NOT GUILTY	0	0	1	1	0	1	0	0	3
DECEASED	1	1	1	6	0	0	0	0	9

As previously indicated, District Courts were still phasing in the collection of the eleven data elements during FY 2003. Therefore, this report will only examine data for the last six months of FY 2003. The data reported are based on 878 DUI cases that were filed during the second half of FY 2003. Of these cases, 771 had a guilty verdict and the remainder were found not guilty or were dismissed.

Repeat Offenders

The first three data elements identified by the courts as important to DUI are comparisons between what was charged, what should have been charged, and what was sentenced. The table indicates that in 68 percent of the cases, defendants were charged as first-time offenders while only 55 percent of those cases were actually first-time offenses. The most common explanation for why there is a disparity between the charged offense and the actual offense is that the offender's prior DUI history may not have been known or was not accurate at the time of the arrest.

DISTRICT COURT REPEAT OFFENDER DATA

Offense was charged as a (first, second or subsequent) offense	Offense was actually (first, second or subsequent) offense	Offense was sentenced as a (first, second or subsequent) offense
FIRST OFFENSE.....68%	FIRST OFFENSE.....55%	FIRST OFFENSE.....70%
SECOND OFFENSE.....12%	SECOND OFFENSE.....25%	SECOND OFFENSE.....17%
THIRD OFFENSE.....17%	THIRD OFFENSE.....15%	THIRD OFFENSE.....10%
FOURTH OR MORE.....2%	FOURTH OR MORE.....5%	FOURTH OR MORE.....3%

The court also collected data to determine if the offender was sentenced as a first or repeat offender. The data indicate that 70 percent of offenders were sentenced as first-time offenders. This figure is actually higher than those charged as

a first-time offender and much higher than those that should have been charged as a first-time offender. Plea agreements are the primary reason why this figure is higher. The majority of DUI cases never go to trial. Instead, defense attorneys often request a reduction in the charge against their client in exchange for a guilty plea.

DISTRICT COURT DUI DATA (January 2003 to June 30, 2003)

BLOOD ALCOHOL CONTENT (BAC)	702 HAD A KNOWN BAC
SUBSTANCE ABUSE SCREENING AND ASSESSMENT ORDERED	71%*
SUBSTANCE ABUSE TREATMENT ORDERED	60%*
EDUCATIONAL SERIES ORDERED	61%*
IGNITION INTERLOCK ORDERED	91 ORDERED
SUPERVISED (NON-COURT) PROBATION	76%*
ELECTRONIC MONITORING	76 ORDERED
ENHANCEMENT NOTIFICATION	18%

*ESTIMATED¹

Blood Alcohol Content

In 80 percent of the District Court cases, the blood alcohol content (BAC) was listed in the report. One reason why a BAC is not listed is that the offender refused to submit to a BAC test. Additional information regarding BAC levels will be reported in the Driver License Division section of this report.

Substance Abuse Screening and Assessment Ordered

In 71 percent of the cases, judges ordered a substance abuse screening and assessment. Subsequently 60 percent were ordered into treatment and 61 percent were ordered to attend an educational series (judges may order both sanctions). Alcohol education and treatment are discussed in further detail in the Sanctions Section of this report.

¹These estimates are based on cases reviewed for the second half of FY 2003 and applied to all cases filed in FY 2003.

Ignition Interlock

Ignition interlock was ordered in 91 cases. An ignition interlock is a device that is installed in a vehicle and requires the driver to blow into the device before the vehicle can be started. If the interlock detects alcohol above a prescribed limit, the ignition of the car is disabled. The *DUI Best Sentencing Practices Guidebook* cites research to show that ignition interlock can be an effective DUI control mechanism when used while other interventions such as education and treatment are taking place.²

One limiting factor in ordering ignition interlock is the availability of providers. Currently there are six ignition interlock providers in Utah. Access to a device is limited by the location of installers, who are primarily located along the Wasatch Front. Offenders are required to pay for the costs of the ignition interlock, which typically runs \$150 for installation and \$75 per month for monitoring.

Supervised (non-court) Probation

In 76 percent of the cases, supervised (non-court) probation was ordered. Probation allows an offender to be released into the community under a set of conditions imposed by a judge in lieu of jail or prison or in conjunction with a shortened jail term. If the offender violates a condition of probation, the judge may revoke the probation status and impose the suspended jail or prison term.³ Probation conditions can include education and/or treatment, community service, ignition interlock, electronic monitoring, and abstinence from alcohol. Offenders are required to pay for supervised (non-court) probation, which averages \$50 per month.

Electronic Monitoring

Electronic monitoring was ordered in 76 cases. Research has indicated that electronic monitoring is as effective as and less expensive than incarceration.⁴ Offenders are required to pay for the cost of the monitoring device. The cost on average is \$50 to \$60 per month.

Enhancement Notification

When a DUI offender enters a plea arrangement, the offender is supposed to be notified that any future offense will result in an enhancement of the charges. The District Courts records show the enhancement notification box was checked in only 18 percent of the cases. This low figure is most likely attributed to low compliance with data collection requirements, as enhancement notification is typically done as part of every plea arrangement.

To ensure that notification occurs, the Administrative Office of the Courts currently has open for public comment a rule change to require that enhancement notification be included in the written plea agreement form. Such a written notification form would be similar to a form currently being used in Justice Courts. The Judicial Council will likely bring this issue up for vote before the end of the year.

RECOMMENDATIONS:

Justice Courts and the Department of Public Safety must continue to work together to ensure the accuracy and compatibility of all electronically transmitted DUI data.

Ignition interlock providers need to expand the number of installers so that devices are readily available even in rural communities.

The Utah Judicial Council should adopt the proposed written enhancement notification rule to inform defendants that subsequent DUI's can result in enhanced penalties.

²Mike Haddon, Gary Franchina and Ron Gordon, *DUI Best Practices Sentencing Guidebook*, (Utah Sentencing Commission, 2003), VI-4 –VI-5.

³Ibid, VI-3. ⁴Ibid, VI-4.

Law Enforcement

Utah law enforcement officers are the first line of defense against drunk and drugged drivers. Officers are trained to detect and apprehend drivers suspect of being under the influence or intoxicated. When an officer pulls over a driver for a moving violation and suspects that the driver may be under the influence of alcohol or drugs, the officer can request the person submit to the Standardized Field Sobriety Test. The test, established by the National Highway Traffic Safety Administration, involves the walk and turn, the one leg stand and the horizontal gaze nystagmus. Based on the outcome of the tests, the officer may place the person under arrest.

Once arrested, the officer can request that the person submit to a breath, blood and/or urine test. Refusal to submit to the requested test(s) will result in the person's license being revoked for a period of 18 months or up to 24 months for a prior offense (UCA 41-6-44.10). At the time of the arrest, the person's vehicle is then impounded if the officer is unable to release the vehicle to another responsible person whose name is listed on the vehicle's registration.

It typically takes an officer two hours from the initial traffic stop to the arrest and completion of all required paperwork. The entire process may take as little as ninety minutes for officers that have specialized DUI expertise, or as long as three hours for more complicated arrests. Law enforcement agencies emphasize that specialized DUI enforcement patrols are necessary so that other police functions are not impaired while the officer is taken off the street to process a DUI. The necessity for having an officer(s) devoted exclusively for

DUI patrols is even more critical for rural law enforcement agencies who may only have one or two officers on the streets at any given time.

In FY 2003, the Utah Highway Patrol conducted 18 DUI sweeps involving 431 troopers and resulting in 402 arrests. The purpose of the sweeps is to target and saturate an area with troopers in order to remove impaired drivers from the road. The sweeps are conducted on weekend nights between the hours of 9 pm and 3 am. The Utah Highway Patrol also partners with local law enforcement agencies to perform these sweeps.

The Utah Highway Patrol was also involved in four sting operations during FY 2003. These stings involved four establishments that were identified by DUI drivers as serving them alcohol to intoxication. As a result of this information, the establishments had their license suspended for a period of time and were assessed heavy fines.

DUI CHECKPOINT RULINGS

Two recent Utah Supreme Court rulings (*State v. DeBooy*, 2000, and *State v. Abell*, 2003) have made DUI sweeps rather than DUI checkpoints the preferred method of enforcement. According to the rulings, checkpoints are only permitted as a narrow exception to the reasonable suspicion requirement—allowing the state to detain vehicles to conduct brief, limited inquiries that advance important public interests related to the use and safety of the highways. But when many legal violations are searched for, the court ruled that the purpose of the checkpoint becomes less a highway safety measure and more a pretext to stop all vehicles to search for any and all violations of the law that might be apparent.

DUI Arrests

The Driver License Division collects information on all DUI arrests. In FY 2003, there were 14,491 DUI arrests. The data indicates that 73.9 percent of all arrests were for regular alcohol violations. Another 12.8 percent were for refusal to submit to a BAC test. Drivers arrested for a drug or metabolite in the system accounted for 7.2 percent of arrests. Violations of the Not A Drop⁵ law were 5.9 percent of arrests. Finally, less than one percent of DUI arrests were commercial drivers, who may not exceed .04 BAC.

DUI ARRESTS FY 2003

Not A Drop (Youth)	859
Refusal to Submit to a BAC Test	1,850
Drug or Metabolite	1,039
Commercial Driver (.04)	24
Regular Alcohol (per se)	10,719
Total	14,491

The Driver License Division utilizes calendar year data in order to analyze DUI arrests trends. The following table charts the data by calendar year and indicates that DUI arrests declined 11.6 percent in 2002. This is the first decline after four straight years of increases.

During FY 2003, over half of all arrests were conducted by local police agencies. The Utah Highway Patrol was responsible for another 30.4 percent of all DUI arrests and Sheriff's Offices arrested the remaining 15.11 percent of DUI offenders.

DUI arrests remained consistent throughout the year, with an average arrest rate of 1,207 per month. May was the busiest time with 1,285 arrests, while June saw only 1,071 arrests.

DUI ARRESTS

CALENDAR YEARS 1998 TO 2002

	1998	1999	2000	2001	2002
Not A Drop (Youth)	809	899	1,023	989	794
Refusal to Submit to a BAC Test	2,438	2,438	2,534	2,591	2,120
Drug or Metabolite	335	708	945	1,392	1,149
Commercial Driver .04	27	20	23	26	40
Regular Alcohol (per se)	9,514	10,146	10,950	11,417	10,400
TOTAL	13,168	14,211	15,475	16,415	14,503

DUI ARRESTS BY POLICE AGENCY FY 2003

AGENCY	NUMBER	PERCENT
SHERIFFS OFFICES	2,189	15.11
CITY POLICE/OTHER	7,892	54.46
HIGHWAY PATROL	4,410	30.43
TOTAL	14,491	100%

DUI ARRESTS BY MONTH FY 2003

MONTH	COUNT	PERCENT
JULY	1,137	7.85
AUGUST	1,256	8.67
SEPTEMBER	1,151	7.94
OCTOBER	1,231	8.50
NOVEMBER	1,257	8.67
DECEMBER	1,279	8.83
JANUARY	1,276	8.81
FEBRUARY	1,119	7.72
MARCH	1,279	8.83
APRIL	1,150	7.94
MAY	1,285	8.87
JUNE	1,071	7.39
TOTAL	14,491	100%

⁵Utah Code Ann. § 53-3-2321 prohibits a driver younger than 21 years of age from operating a motor vehicle or motorboat with any amount of alcohol in the body. A first violation results in a 90-day license suspension while a second or subsequent violation within three years results in a one-year license suspension.

DUI ARRESTS AND CONVICTIONS BY COUNTY FY 2003

COUNTY	ARRESTS	PERCENT OF TOTAL ARRESTS	DUI CONVICTIONS	OTHER CONVICTIONS	TOTAL CONVICTIONS
BEAVER	58	0.40	33	13	46
BOX ELDER	186	1.28	68	37	105
CACHE	385	2.66	155	97	252
CARBON	169	1.17	48	20	68
DAGGETT	11	0.08	5	2	7
DAVIS	1,452	10.02	450	352	802
DUCHESNE	195	1.35	91	31	122
EMERY	133	0.92	56	34	90
GARFIELD	54	0.37	26	2	28
GRAND	212	1.46	67	50	117
IRON	295	2.04	151	44	195
JUAB	166	1.15	47	39	86
KANE	125	0.86	31	27	58
MILLARD	110	0.76	54	15	69
MORGAN	34	0.23	9	5	14
PIUTE	10	0.07	3	0	3
RICH	16	0.11	6	2	8
SALT LAKE	5,167	35.66	1,423	540	1,963
SAN JUAN	123	0.85	51	24	75
SANPETE	125	0.86	42	26	68
SEVIER	187	1.29	56	21	77
SUMMIT	239	1.65	99	37	136
TOOELE	564	3.89	199	71	270
UINTAH	374	2.58	163	62	225
UTAH	1,560	10.77	547	302	849
WASATCH	217	1.50	45	25	70
WASHINGTON	654	4.51	192	71	263
WAYNE	15	0.10	2	2	4
WEBER	1,655	11.42	628	397	1,025
TOTAL	14,491	100%	4,747	2,348	7,095

The vast majority of DUI arrests occurred along the Wasatch Front, with Weber, Davis, Salt Lake and Utah counties accounting for 67.87 percent of all DUI arrests (9,854 arrests total). Daggett, Puite, Wayne and Rich had the least number of DUI arrests, with only 52 arrests total.

**DUI ARRESTS BY GENDER
FY 2003**

GENDER	NUMBER	PERCENT
MALE	11,740	81.06
FEMALE	2,688	18.50
UNSPECIFIED	63	0.43
TOTAL	14,491	

Over 80 percent of arrestees were male, with 18.5 percent female. The youngest person arrested for a DUI was seven. The oldest person arrested was between the age of 91-93. Most DUI arrests are concentrated on the ages of 22-33, accounting for 30 percent of all those arrested.

**DUI ARRESTS BY AGE
FY 2003**

AGE	NUMBER	PERCENT
UNKNOWN	5	0.03
7	1	0.01
15	3	0.02
16	20	0.13
17	129	0.89
18	304	2.10
19	508	3.51
20	661	4.56
21	722	4.98
22-24	2,230	15.39
25-27	1,705	11.77
28-30	1,281	8.84
31-33	1,084	7.48
34-36	961	6.63
37-39	890	6.14
40-42	1,013	6.99
43-45	868	5.99
46-48	673	4.64
49-51	491	3.39
52-54	322	2.22
55-57	236	1.63
58-60	140	0.10
61-63	86	0.97
64-66	52	0.46
67-69	38	0.26
70-72	27	0.19
73-75	17	0.12
76-78	16	0.11
79-81	4	0.03
82-84	3	0.02
91-93	1	0.01
TOTAL	14,491	

**BLOOD ALCOHOL
CONTENT (BAC) FY 2003**

BAC	COUNT
NO BAC REPORTED	2,757
0.01	62
0.02	93
0.03	88
0.04	122
0.05	150
0.06	220
0.07	282
0.08	476
0.09	529
0.10	604
0.11	589
0.12	569
0.13	600
0.14	598
0.15	508
0.16	462
0.17	419
0.18	383
0.19	355
0.20	295
0.21	186
0.22	156
0.23	155
0.24	132
0.25	111
0.26	74
0.27	50
0.28	37
0.29	31
0.30	19
0.31	19
0.32	11
0.33	9
0.34	11
0.35	6
0.36	4
0.37	2
0.38	2
0.39	4
0.40	1
0.44	1
UNKNOWN	2,483
DRUG ONLY	826
TOTAL	14,491

The blood alcohol content was known in 8,425 of the arrests, or 58 percent.

Nineteen percent of the arrests had no BAC reported. In 17.1 percent of the cases, the BAC was unknown. Another 5.7 percent of the cases were drug related only.

In 48.9 percent of the cases with a known BAC, the driver registered .08 or higher.

The highest BAC reported was .44. It should be noted that the raw data from the Driver License Division does not indicate if the DUI arrest was related to an accident or a traffic stop.

BLOOD ALCOHOL CONCENTRATION (BAC)

.00%	Only safe level!
.01-.03%	Impairment begins.
.04-.07%	Reflexes, vision, judgment and concentration affected. Combined with fatigue, illness, stress, other drugs, or poor driving conditions increase risk of crash.
.08-.011%	Illegal in Utah. Greater levels of impairment in all the above. Average risk of crash is 6 to 10 times normal.
.12-.15%	Motor skills, mental functions and vision are severely impaired.
.16%+	Extreme crash risk! Unconscious at .25-.35%. Death will occur at about .35-.45%

Source: Driver License Division

Utah's Beer Tax and DUI Enforcement

Since 1983, local communities have relied on beer tax funding appropriated by the Utah Legislature to help fund critical alcohol enforcement, prevention and treatment efforts. Prior to 2003, state law permitted the Legislature to allocate up to \$4.35 million annually; however, as the chart illustrates, the appropriation has steadily declined even though beer tax revenue continued to increase.

\$4,350,000 or 40 percent of all revenue from the tax is deposited into the fund, whichever is greater.

Funds are distributed by the Utah State Tax Commission on a formula basis based on population, alcohol-related convictions and number of liquor outlets as listed below:

- 25% to municipalities and counties based upon the percentage of the state population residing in each municipality and county;

- 30% to municipalities and counties based upon each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

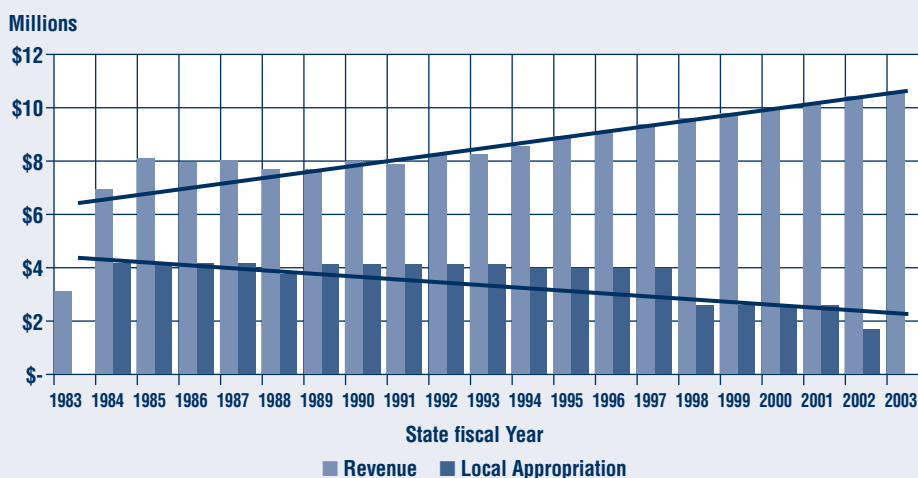
- 20% to municipalities and counties based upon the percentage of all state stores, package agencies, liquor

licensees, and beer licensees in the state that are located in each municipality and county; and

- 25% to the counties for confinement and treatment purposes authorized by this section based upon the percentage of the state population located in each county.

Communities that receive more than \$1,000 in beer tax revenues are required to submit an Annual Report to the Utah Substance Abuse and Anti-Violence Coordinating Council outlining how funds were utilized and certifying that they were used in accordance with the law.

BEER TAX REVENUE VS. APPROPRIATIONS



In FY 2003, the Legislation did not appropriate any funds as one of many costs savings measures to balance the state's budget. During the 2003 Legislative Session, SB 66, Alcoholic Beverage Enforcement and Treatment, sponsored by Sen. Michael Waddoups, passed. The bill increased the beer tax rate by \$3 a barrel (approximately one penny per 12 oz. can). The bill also created the Alcoholic Beverage Enforcement and Treatment Restricted Account and stated that for fiscal year 2003-04 \$3,044,000 shall be deposited into the restricted account. The funds are to increase each year until fiscal year 2007-08, when either

Because no funds were allocated in FY 2003, data from FY 2002 is being provided to demonstrate how funds were utilized. Of the 260 cities, towns and counties that receive the funds, only 114 were required to submit a report.

EXAMPLES OF ACTIVITIES FUNDED WITH THE BEER TAX

Salina City - Sevier County \$4,125.31

Purchased video equipment to monitor convenience stores for the violation of alcohol sales.

Salt Lake County \$342,723.11

Assigned a special enforcement squad to patrol the canyons from 8:00 p.m. - 4:00 a.m. on Friday and Saturday nights to reduce criminal activity and traffic violations related to alcohol and drug use.

Holladay City - Salt Lake County \$7,528.57

Implemented a Substance Abuse Court program that operates out of the Holladay Justice Court each Tuesday from 9 - 11 a.m. The program is for DUI and other drug and alcohol offenders.

Nephi City - Juab County \$4,137.25

Developed an alcohol awareness program administered through their Youth Court.

North Park Police Department - North Logan and Hyde Park, Utah \$2,826.81

Purchased student manuals for D.A.R.E. training. A total of 192 fifth grade students and 302 seventh grade students graduated from the D.A.R.E. curriculum and made a commitment to resist drugs and alcohol.

Centerville Police Department \$9,582.57

Purchased in-car video cameras to document driving patterns, field sobriety tests and verbal statements made during DUI arrests.

USES OF ALCOHOL FUNDS FY 2002

DUI LAW ENFORCEMENT	121
GENERAL ALCOHOL-RELATED LAW ENFORCEMENT	112
PROSECUTION/COURT CASES FOR ALCOHOL-RELATED CASES	9
TREATMENT OF ALCOHOL PROBLEMS	4
ALCOHOL-RELATED EDUCATION/PREVENTION	77
CONFINEMENT OF ALCOHOL LAW OFFENDERS	4

RECOMMENDATION:

The Utah Legislature needs to pass appropriation language to distribute the 2003 alcohol funds to municipalities and counties to enhance their DUI enforcement, prevention and treatment efforts.

The Utah Substance and Anti-Violence Coordinating Council should consider adopting additional reporting requirements to ensure that funds are used to enhance current efforts and not supplant those efforts.

Adjudication

When a court makes a judicial decision regarding a DUI, it is considered an adjudication. The timeliness of that adjudication is an important factor when determining the effectiveness of the justice system to process DUI cases.

As part of the study completed by the Commission on Criminal and Juvenile Justice, researchers

examined the time difference between the date arrested and adjudicated as reported to the Driver License file. While the study covered the period of 1990 to 2000, researchers only examined those arrests that were reported before 1998. This was done to avoid “skewing” the data to those offenses that could not have been adjudicated because not enough time had elapsed from the date of arrest.

Of those arrested between 1990 and 1998, about one-third were processed within 30 days of arrest. Two-thirds of the cases were processed within 90 days of arrest. Almost all of the cases were processed by the time one year had elapsed. However, this analysis did not include 37,923 (33 percent) cases because no conviction date was posted to the file.

TIME BETWEEN ARREST AND CONVICTION	NUMBER	PERCENT OF TOTAL
0-30 days	26,852	34.65%
31-60 days	14,740	19.02%
61-90 days	10,971	14.16%
91-180 days	13,941	17.99%
181-365 days	7,142	9.22%
366 days and over	3,851	4.97%

Sanctions

Driving Under the Influence in Utah is a Class B misdemeanor. The offense is enhanced to a Class A if it involves bodily injury, if the passenger is under 16, or if the passenger is under 18 and the driver is 21 or older. The offense is further enhanced to a third degree felony if serious bodily injury occurs, if there was any prior felony DUI conviction or automobile homicide conviction, or if it was the third or subsequent DUI offense within ten years.

In the following discussion about sanctions, reference will be made to the current 2003 DUI Sentencing Matrix (Appendix 1). This matrix provides a summary of Utah's DUI law for judges, and specifies what sanctions must be applied for a first offense, second offense within ten years, and third or subsequent offense within ten years.

While the Sentencing Matrix may indicate that judges shall impose certain sanctions, the data may show that such a sanction was not always imposed. By way of explanation, some of today's laws may not have been in place during the time period covered by this analysis. Offenders with high blood alcohol content (.16 or higher) are also subject to different sanctions. In addition, the particulars of a case may influence sentencing. For example, increased penalties may apply if bodily injury was inflicted, if there was a passenger under 16, or if the driver was under 21. The data contained in this analysis also includes alcohol-related reckless (ARR) offenses since many ARR cases were originally charged as a DUI. The Sentencing Matrix does not address ARR offenses. Offenders typically receive lighter sanctions for such offenses.

Data for this section comes from the study being conducted by the University of Utah Social Research Institute under the direction of Dr. Caren Frost. Researchers are completing their work on a quantitative study about people arrested for driving under the influence by analyzing data from Driver License Division and District Courts during the years of 1991 to 2001. The purpose of this phase of the study is to determine the Driver License Divisions' response to DUI/ARR cases and to analyze the criminal justice system's response to DUI/ARR crime during the adjudication and sanction phase of the legal processes.

PRELIMINARY FINDINGS FROM UNIVERSITY OF UTAH DUI STUDY*

- **83% male, 17% female**
- **Mean age at first offense is 32**
- **Women just as likely as men to be repeat offenders**
- **Average time between first and second offense is 385 days**
- **Average number of reoffenses is 1.6**
- **9,742 had more than one offense (19% recidivism rate)**
- **2,427 had more than two offenses (multiple recidivism rate of 5%)**

**From a review of 52,366 DUI and Alcohol Related Reckless cases from November 1991 to October 2001*

Caution must be taken when reviewing these data as researchers state it is neither definitive nor final. One challenge facing researchers is that information regarding the same DUI cases is contained at the District Courts, Driver License Division and Bureau of Criminal Identification. In some cases, data elements are missing. Merging the information from these three databases and reformatting it for analysis is currently underway.

Despite the data challenges, researchers have still been able to conduct some analysis of the data to arrive at some preliminary findings that are useful for the discussion of effectiveness of sanctions. Researchers examined the sanctions ordered by the court to determine which sanctions were applied for first, second, and third time offenders. Researchers also determined if there was a correlation between the sanction imposed and subsequent offending.

It should be noted that each sanction was considered individually. In DUI cases, more than one sanction may be applied. For example, an offender may have their driver license revoked as well as be placed on probation. Researchers will further analyze how sanctions are applied, the prior criminal history of the offender and other related issues when they enter the qualitative phase of the study. Such a study will measure the efficacy of the interventions being used with DUI offenders.

Jail Sentences

In the University of Utah study, judges ordered just over half of first-time offenders (51.5 percent) to jail sentences. According to the DUI Sentencing Matrix, a judge **shall** order 48 consecutive hours of jail **or** 48 hours compensatory service **or** electronic home confinement.

JAIL SENTENCES FY 2003

AVERAGE JAIL SENTENCE:	29.17 DAYS
AVERAGE TIME SUSPENDED:	25.41 DAYS
AVERAGE TIME SERVED:	3.75 DAYS

Source: Driver License Division

Researchers found that those with two or more offenses were much more likely to have jail sentences imposed at their first offense. There was, however, no appreciable difference between jail sentences at the second offense and subsequent offending. Further analysis will be conducted to determine the average length of stay in jail and the prior criminal histories of those offenders.

Fines

The DUI Sentencing Matrix states that a \$700 minimum fine plus surcharge **shall** be ordered for a first offense. That fine increases to an \$800 minimum plus surcharge for a second offense. Third time offenders **shall** be charged a minimum of \$1,500 unless a 0-5 prison term is imposed.

FINES FY 2003

AVERAGE FINE FOR ALL CONVICTIONS:	\$382.17
AVERAGE FINE FOR DUI CONVICTIONS:	\$791.05

Source: Driver License Division

The University of Utah study found that courts imposed fines for 59.5 percent of first-time offenders. The frequency of fines decreased for subsequent offenses, with only 41.3 percent of the third time offenders receiving fines. Again, those that were fined showed a higher rate of recidivism than those that were not fined. However, there was not appreciable difference between being fined at the second offense and subsequent offending.

Probation

The University of Utah study indicated that supervised probation was rarely ordered for first-time offenders. Only 3.8 percent of first-time offenders received supervised probation as a sanction.

The DUI Sentencing Matrix allows judges discretion in determining if supervised probation is appropriate for a first-time offender. For a second offense, however, as of 2001 the DUI Sentencing Matrix states that judges **shall** order supervised probation.

According to researchers only 2.9 percent of second offenders received supervised probation. A slightly smaller number of third-time offenders (2.3 percent) received supervised probation. This reduction may be due to the fact that some of these individuals received a prison term.

Researchers noted that no appreciable difference existed between being sentenced to supervised probation at the first offense and subsequent offending.

Community Service

The data indicated that 8.3 percent of first-time offenders received community service as a sanction. Repeat offenders were less likely to receive community service as a sanction, with only 4.0 percent of third-time offenders receiving this sanction. Second offenders were more likely to have been sentenced to community service at their first offense. There was no difference in rates of re-offending related to community service sentences at the second offense.

The DUI Sentencing Matrix allows for imposition of 24 hours of compensatory service for a first offense and 240 hours for a second offense in lieu of an equal amount of jail time or in lieu of electronic home monitoring.

Driving Privileges

Driving privileges were revoked in 76.7 percent of all first-time DUI/ARR offenses. This sanction was applied with increased frequency for subsequent offenses. State law requires the Driver License Division to revoke driving privileges for 90 days for a first offense. This revocation is done administratively and independent of any court action. The DUI Sentencing Matrix allows judges to extend the license suspension for an additional 90 days, 180 days, 1 year or 2 years.

Researchers noted that those who retained their driving privileges were more likely to remain single offenders. Those who lost their driving privileges were much more likely to become two time and multiple offenders. This preliminary finding indicates that revocation of driving privileges appears to be insufficient as a single measure to deter future DUI offenses. While revocation is a necessary and important tool, its singular use has yet to be proven to be effective. Researchers plan to further explore this particular sanction in their qualitative phase to better understand why this sanction does not achieve the desired effect of preventing future offenses.

RECOMMENDATION:

On-going training for judges and prosecutors is needed to ensure they are current on DUI laws, as there have been numerous changes to the laws in the last several years. Training should also emphasize the effectiveness of various sanctions, in particular, the effectiveness of education and treatment in reducing repeat DUI offenses.

Driver License Control

A charge of driving under the influence is a violation of both the criminal code (handled by the court) and the civil administrative code (handled by the Driver License Division). A person must prevail before both bodies in order to retain their driving privileges. The Division is required by statute to suspend or revoke the license of a person that has been convicted or sanctioned for one of the following:

- Driving under the influence (UCA 41-6-44)
- Driving with any measurable controlled substance in body, or metabolite (UCA 41-6-44.6)
- Refusal to submit to a chemical test (UCA 41-6-44.10)
- Automobile homicide (UCA 76-5-207)
- “No-alcohol” conditional license (UCA 53-3-232)

For alcohol-related reckless driving (UCA 41-6-44(9)), the Division can suspend driving privileges only upon recommendation by a judge.

In order to suspend or revoke a license, the Division holds a hearing that is conducted in a similar manner to a court hearing. At the hearing, the driver may be represented by counsel. The arresting officer must also be present. If the officer fails to appear or report telephonically, the driver will prevail. State law requires that the driver and the officer appear in the county in which the arrest was made. This requirement causes some difficulties for both parties if neither resides in that county. For example, the driver may be passing through or the officer may be temporarily assigned to work in that county.

NO ALCOHOL CONDITIONAL LICENSE (UCA § 53-3-232)

Utah law mandates that the Driver License Division issue a “No Alcohol” conditional license to any person convicted of a qualifying offense once that person has completed any applicable license suspensions or revocations, or upon conviction if no suspension or revocations result from the conviction. The license will be clearly marked on the back.

The driver is then prohibited from driving with any alcohol in his or her system. The constraint period is two years on the first qualifying conviction and six years on the second or subsequent qualifying convictions.

Conviction for a violation of the “No Alcohol” conditional license will result in a one year revocation of driving privileges. Since the law went into effect, there have been 24 convictions for violating the conditional license. The majority of these convictions occurred during the first nine months of 2003, with 15 convictions recorded.

(Chart on following page contains alcohol hearing statistics for FY 2003.)

RECOMMENDATIONS:

The Utah Legislature should pass statutory language to allow the electronic transmission of data for driver license hearings and to allow the Driver License Division the authority to determine in which county a hearing will be held.

The Utah Department of Public Safety and law enforcement agencies must continue to train law enforcement officers to check for conditional licenses and respond appropriately during traffic stops.

ALCOHOL HEARING STATISTICS FOR FY 2003

MONTH	ACD CODE	TOTAL # OF HEARINGS	NO OFFICER	NO OFFICER TELEPHONIC	OTHER NO ACTION	TOTAL NO ACTION	TOTAL TELEPHONIC
JULY	PER SE	190	45	0	41	86	37
	NOT A DROP	12	2	0	2	4	0
	REFUSAL	38	7	1	6	14	4
JULY TOTAL		240	54	1	49	104	41
AUGUST	PER SE	187	54	7	17	78	33
	NOT A DROP	9	2	0	1	3	0
	REFUSAL	37	9	1	6	16	8
AUG TOTAL		233	65	8	24	97	41
SEPTEMBER	PER SE	204	65	1	37	103	32
	NOT A DROP	11	1	0	5	6	1
	REFUSAL	43	11	0	8	19	5
SEPT TOTAL		258	77	1	50	128	38
OCTOBER	PER SE	264	72	7	53	132	63
	NOT A DROP	13	1	0	4	5	1
	REFUSAL	43	8	0	12	20	8
OCT TOTAL		320	81	7	69	157	72
NOVEMBER	PER SE	293	66	1	74	141	55
	NOT A DROP	12	0	0	2	2	2
	REFUSAL	46	9	0	11	20	7
NOV TOTAL		351	75	1	87	163	64
DECEMBER	PER SE	273	70	0	65	135	63
	NOT A DROP	9	1	0	3	4	2
	REFUSAL	50	13	0	6	19	15
DEC TOTAL		332	84	0	74	158	80
JANUARY	PER SE	346	69	0	65	134	107
	NOT A DROP	13	0	0	4	4	1
	REFUSAL	47	2	0	10	12	13
JAN TOTAL		406	71	0	79	150	121
FEBRUARY	PER SE	290	37	2	68	107	69
	NOT A DROP	19	0	0	5	5	2
	REFUSAL	55	6	0	10	16	16
FEB TOTAL		364	43	2	83	128	87
MARCH	PER SE	300	52	0	64	116	84
	NOT A DROP	18	3	0	0	3	1
	REFUSAL	64	7	0	18	25	30
MAR TOTAL		382	62	0	82	144	115
APRIL	PER SE	297	66	2	55	123	72
	NOT A DROP	10	0	0	1	1	3
	REFUSAL	47	6	0	9	15	9
APR TOTAL		354	72	2	65	139	84
MAY	PER SE	299	56	2	64	122	85
	NOT A DROP	14	1	0	2	3	3
	REFUSAL	52	7	1	7	15	12
MAY TOTAL		365	64	3	73	140	100
JUNE	PER SE	163	65	1	26	92	19
	NOT A DROP	1	1	0	0	1	0
	REFUSAL	32	5	0	10	15	6
JUNE TOTAL		196	71	1	36	108	25
FY2003	PER SE	3106	717	23	629	1369	719
	NOT A DROP	141	12	0	29	41	16
	REFUSAL	554	90	3	113	206	133
FY2003 TOTAL		3801	819	26	771	1616	868

Alcohol Education, Assessment and Treatment

The current DUI Sentencing Matrix is clear in what judges are required to do for first, second and subsequent offenders. Judges **shall** order a screening and assessment for **any** DUI offender.

A screening is a one-time, quick appraisal of a person used to determine if they have a substance-related disorder. If the screening indicates the person may have a disorder, a referral for an assessment is made to a licensed treatment professional. That professional will then perform a comprehensive, clinical assessment utilizing the Addictions Severity Index (ASI) to determine the type of interventions that would be most effective and the length of care a person needs.

Based on the outcome of the screening and assessment, education or treatment may be indicated. The Matrix states that the offender **shall** receive education if treatment is not ordered on a first or second offense. A third offense requires intensive treatment or inpatient treatment and aftercare for not less than 240 hours.

Alcohol Education

Utah requires the 16-hour Prime for Life® educational course for DUI offenders. The course is designed to explore and address any problems or risk factors that appear to be related to use of alcohol or other drugs and to help the individual recognize the harmful consequences of inappropriate use. Special emphasis is given to the dangers of drinking and driving.⁶

A study of the effectiveness of Utah's Prime for Life® program was completed in June 2002 by the Prevention Research Institute for the Utah Division of Substance Abuse. The study compared pre-test and post-test surveys from 4,071 program participants during June 2000 to October 2001. Analyses revealed statistically significant and desired changes on measures of perception of risk.⁷

The survey demographics included 82 percent males and 18 percent females. Seventy-one percent of the participants identified themselves as Caucasian, 21 percent were Hispanic, 2 percent were African American and 6 percent selected the "Other" category. One-third of all participants were high-school graduates, with another 8 percent college graduates. This was a first DUI offense for 78 percent of the participants.

DUI offenders should not have much difficulty accessing DUI education since there are over 200 certified DUI Education instructors throughout the state of Utah. Besides instruction in English, instructors are also able to provide instruction in Spanish, American Sign Language, Yugoslavian, French and Japanese.

The University of Utah research study found that in only 1.3 percent of cases, alcohol education was ordered. The low numbers sentenced to education may be due to the fact that 26 percent of first-time offenders were sentenced to treatment, indicating these offenders were not appropriate candidates for education.

⁶ Mike Haddon, Gary Franchina and Ron Gordon, DUI Best Practices Sentencing Guidebook, (Utah Sentencing Commission, 2003), II-1.

⁷ Prime for Life! A Report on Offenders Convicted of Driving Under the Influence, (Prevention Research Institute, 2002) 1.

COUNTIES	NUMBER OF DUI EDUCATION PROVIDERS
BOX ELDER, CACHE AND RICH	2
WEBER	5
DAVIS	3
SALT LAKE	22
SUMMIT	1
WASATCH	1
UTAH	4
TOOELE	1
DAGGETT, DUCHESNE, UINTAH	3
JUAB, MILLARD, SANPETE, SEVIER, PIUTE, WAYNE	7
CARBON, EMERY, GRAND	3
BEAVER, IRON, GARFIELD, WASHINGTON, KANE	8
SAN JUAN	3

Source: Division of Substance Abuse and Mental Health

At the first offense, researchers found that those referred to alcohol education are more likely to remain single offenders. They are also much less likely to become two time or multiple offenders. It can be hypothesized that the success of education can be primarily attributed to the fact that offenders who receive this sanction are determined not to be addicted to alcohol; therefore, they are more likely to be amenable to behavioral change.

Researchers indicate that a controlled study still needs to be conducted to identify if offenders are being screened as required, and what percentage qualify for education but are not required to attend. The study will also examine why alcohol education is so effective in reducing subsequent offending.

Treatment

Requiring offenders to seek treatment demonstrates similar success in reducing subsequent offending. In the University of Utah study, judges required treatment for 26.0 percent of first time offenders. Treatment requirements increased for second time offenders, with 40.0 percent ordered to treatment. For third-time offenders, 28.6 percent were ordered to treatment.

Researchers found that those who were referred to treatment were more likely to remain single offenders. Those not referred to treatment were much more likely to become two time and multiple offenders. For second offenders referred to treatment, they were also more likely to remain two time offenders. Those not referred to treatment were considerably more likely to become multiple offenders.

RECOMMENDATIONS

Alcohol education and treatment need to be emphasized as an effective and cost-effective sanction for DUI offenders.

How Does Utah Compare?

Utah has the lowest alcohol-related traffic deaths in the nation, with only 22 percent of all fatal traffic deaths related to alcohol.⁸ Over the last four years, Utah's rate has remained consistent and significantly lower than that of surrounding states.

PERCENT OF ALCOHOL-RELATED TRAFFIC FATALITIES

STATE	2002	2001	2000	1999
ARIZONA	43	46	44.1	39.6
COLORADO	41	44	37.5	35.2
NEVADA	45	42	44.8	44.7
UTAH	22	24	24	20.6
IDAHO	34	35	41.5	36.8

⁸2002 Annual Assessment of Motor Vehicle Crashes, National Highway Traffic Safety Administration.

Quick guide

DUI Sentencing Matrix (Current as of the 2003 General Session)

	FIRST OFFENSE	SECOND OFFENSE WITHIN 10 YEARS	THIRD OR SUBSEQUENT OFFENSE WITHIN 10 YEARS
CLASSIFICATION	CLASS B MISDEMEANOR BECOMES A CLASS A: <ul style="list-style-type: none"> • if bodily injury inflicted • if passenger is under 16 • if passenger is under 18 and driver is 21 or older THIRD DEGREE FELONY: <ul style="list-style-type: none"> • if serious bodily injury 	CLASS B MISDEMEANOR BECOMES A CLASS A: <ul style="list-style-type: none"> • if bodily injury inflicted • if passenger under 16 • if passenger under 18 and driver is 21 or older THIRD DEGREE FELONY: <ul style="list-style-type: none"> • if any prior felony DUI conviction or automobile homicide conviction • if serious bodily injury 	3RD DEGREE FELONY
SENTENCING Jail – SHALL order:	48 consecutive hours OR 48 hours compensatory service OR electronic home confinement*	240 consecutive hours OR 240 hours compensatory service OR electronic home confinement*	0-5 year prison term OR 1,500 hours jail (62.5 days) May also require electronic home confinement*
Fine – SHALL order:	\$700 minimum plus surcharge	\$800 minimum plus surcharge	\$1,500 minimum, unless 0-5 prison term is imposed
Other – SHALL order:	<ul style="list-style-type: none"> • Screening & assessment • Educational Series, unless treatment is ordered • MAY order treatment 	<ul style="list-style-type: none"> • Screening & assessment • Educational Series, unless treatment is ordered • MAY order treatment 	<ul style="list-style-type: none"> • Screening & assessment • Intensive treatment or inpatient treatment and aftercare for not less than 240 hours
Probation: **	MAY order supervised probation	SHALL order supervised probation	SHALL order supervised probation if 0-5 prison term is not imposed
Ignition interlock:***	MAY order ignition interlock	SHALL order ignition interlock (3 years)	SHALL order ignition interlock (3 years)
High BAC: (.16 or higher)	<ul style="list-style-type: none"> • SHALL order supervised probation • If no treatment, interlock or home confinement, reasons must be stated on the record 	SHALL order supervised probation	SHALL order supervised probation if 0-5 prison term is not imposed
License suspension:	Court MAY order additional 90 DAYS, 180 DAYS, 1 YEAR OR 2 YEARS	Court MAY order additional 90 DAYS, 180 DAYS, 1 YEAR OR 2 YEARS	Court MAY order additional 90 DAYS, 180 DAYS, 1 YEAR OR 2 YEARS

*See §41-6-44(13) for Electronic Home Confinement provisions **See §41-6-44(14) for Supervised Probation provisions

***See §41-6-44.7 for Ignition Interlock provisions NOTE: Supervised probation is also required for all violations of §41-6-44.6 (DUI Drugs)



Utah Commission
on Criminal and
Juvenile Justice

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